

2. Not only is Coldwell Banker suffering irreparable harm—as explained in the Motion for TRO—from the Individual Defendants’ unabated violations of their restrictive covenants and continued access to misappropriated confidential and trade-secret information of Coldwell Banker, but since the filing of the lawsuit, counsel for Defendant Taffie Dolson (“**Dolson**”) explained he instructed her to delete the copies of the documents she misappropriated

from Coldwell Banker—which would destroy relevant evidence, including critical metadata.¹ Although her counsel later acquiesced to Coldwell Banker’s instruction that no Defendant should delete or destroy relevant evidence, and suggested he countermanded his previous instruction to Dolson,² the point is that prompt intervention from the Court is necessary to preserve the status quo, including the cessation of the Individual Defendants’ misconduct and the preservation of relevant documents and ESI.

3. However, Coldwell Banker is cognizant of the Court’s limited time and judicial resources, and understands the Court’s admonition that requests such as these be made for extremely urgent circumstances.

4. Thus, while this matter is extremely urgent for Coldwell Banker, to the extent the Court is inclined to instead proceed to a preliminary injunction hearing, Coldwell Banker would ask the Court to set a preliminary injunction hearing 30-45 days from now and to authorize expedited discovery in the interim. Alternatively, if the Court would prefer to refer Coldwell Banker’s Motion for TRO to Magistrate Judge Yvonne Ho, Coldwell Banker would appreciate the chance to have the Motion for TRO heard on an expedited/emergency basis.

5. Before filing this request, Coldwell Banker attempted to confer with counsel for Defendants and obtain their agreement to having the Motion for TRO heard on an expedited/emergency basis.³ Notably, Coldwell Banker made that request after counsel for Defendants suggested they may agree to a TRO,⁴ and after Coldwell Banker sent counsel for

¹ See Ex. 1, at Email from S. Williard to N. Sarokhanian, dated August 24, 2022 at 1:36 p.m. Highlighting supplied for readability and emphasis.

² See *id.* at Email from N. Sarokhanian to S. Williard, dated August 24, 2022 at 3:29 p.m., and Email from S. Williard to N. Sarokhanian, dated August 24, 2022 at 4:04 p.m.

³ See *id.* at Email from N. Sarokhanian to S. Williard, dated August 24, 2022 at 4:28 p.m.

⁴ See Ex. 2, at Email from S. Williard to N. Sarokhanian, dated August 23, 2022 at 8:07 p.m.

Defendants a copy of the proposed TRO it filed [ECF No. 7] but did not receive a response on whether Defendants would agree to its terms as they had previously suggested.⁵

6. Counsel for Defendants has failed to respond to Coldwell Banker's request that they agree to have the Motion for TRO heard on an expedited/emergency basis, and it is therefore presumed that Defendants are opposed.

Dated: August 25, 2022.

Respectfully submitted,

/s/ Nicholas A. Sarokhanian

Nicholas A. Sarokhanian

Texas Bar No. 24075020

nicholas.sarokhanian@hkllaw.com

Morgan J. Kleoppel

Texas Bar No. 24116625

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(214) 964-9496 (telephone)

(214) 964-9501 (facsimile)

Counsel for Plaintiff

NRT Texas LLC, d/b/a Coldwell Banker

Realty and Coldwell Banker United,

Realtors

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing was filed with the Court's CM/ECF system and served in accordance with Federal Rule of Civil Procedure 5 via the Court's CM/ECF system and email to all counsel of record on August 25, 2022.

/s/ Nicholas A. Sarokhanian

Nicholas A. Sarokhanian

⁵ See *id.* at Email from N. Sarokhanian to S. Williard, dated August 24, 2022 at 12:49 p.m.; Ex. 1 at Email from N. Sarokhanian to S. Williard, dated August 24, 2022 at 4:28 p.m.

EXHIBIT 1

From: [Sarokhanian, Nicholas A \(DAL - X59496\)](#)
To: [Steve Williard](#)
Cc: [Kleoppel, Morgan J \(DAL - X59445\)](#); [Tansey, Maddie M \(HOU - X45860\)](#); [paralegal](#); [Jana Thompson](#)
Subject: RE: Return of Templates in the matter of NRT Texas LLC v. Wilbur
Date: Wednesday, August 24, 2022 4:28:02 PM

Steve – I didn't ask for it to be returned in a way that would spoliage evidence or alter metadata, and my client's complaint, motion for TRO, and proposed TRO made it clear that your clients must not use or disclose the misappropriated information and must return it in a forensically sound way.

Also, you haven't provided the confirmation I requested earlier today about whether you're accepting service for Ms. Wilbur, Ms. Dolson, Ms. Johnson, and Ms. Sheinall. You also haven't told me whether your clients will agree to the TRO I sent you. Please promptly let me know about those items.

Otherwise, please promptly let me know whether your clients agree to having an expedited/emergency hearing on the motion for TRO.

Thanks,

Nick

Nicholas Sarokhanian | Holland & Knight

Partner

Holland & Knight LLP

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nicholas.sarokhanian@hklaw.com | www.hklaw.com

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From: Steve Williard <Steve@williardlaw.com>

Sent: Wednesday, August 24, 2022 4:04 PM

To: Sarokhanian, Nicholas A (DAL - X59496) <Nicholas.Sarokhanian@hklaw.com>

Cc: Kleoppel, Morgan J (DAL - X59445) <Morgan.Kleoppel@hklaw.com>; Tansey, Maddie M (HOU - X45860) <Maddie.Tansey@hklaw.com>; paralegal <paralegal@williardlaw.com>; Jana Thompson <Jana@williardlaw.com>

Subject: RE: Return of Templates in the matter of NRT Texas LLC v. Wilbur

[External email]

Well Nick you asked that it be returned – so, I returned it. But I will tell her to disregard my earlier instruction. And to be clear, any forensic IT guy worth his salt will be able to determine if she used it / accessed it / send it to someone, etc. – which she did none of. Steve

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From: Sarokhanian, Nicholas A (DAL - X59496) <Nicholas.Sarokhanian@hklaw.com>
Sent: Wednesday, August 24, 2022 3:29 PM
To: Steve Williard <Steve@williardlaw.com>
Cc: Kleoppel, Morgan J (DAL - X59445) <Morgan.Kleoppel@hklaw.com>; Tansey, Maddie M (HOU - X45860) <Maddie.Tansey@hklaw.com>; paralegal <paralegal@williardlaw.com>; Jana Thompson <Jana@williardlaw.com>
Subject: RE: Return of Templates in the matter of NRT Texas LLC v. Wilbur

Steve – do not have Ms. Dolson or any of your clients delete anything relevant to the lawsuit. They are obligated to preserve all relevant documents and electronically stored information, including but not limited to what they misappropriated from Coldwell Banker. They must, of course, not use or disclose it, but the return of the misappropriated documents and ESI must be done in a forensically sound manner.

Please confirm that your clients will comply with their preservation obligations.

Nicholas Sarokhanian | Holland & Knight

Partner

Holland & Knight LLP

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nicholas.sarokhanian@hklaw.com | www.hklaw.com

[Add to address book](#) | [View professional biography](#)

From: Steve Williard <Steve@williardlaw.com>
Sent: Wednesday, August 24, 2022 1:36 PM
To: Sarokhanian, Nicholas A (DAL - X59496) <Nicholas.Sarokhanian@hklaw.com>
Cc: Kleoppel, Morgan J (DAL - X59445) <Morgan.Kleoppel@hklaw.com>; Tansey, Maddie M (HOU -

X45860) <Maddie.Tansey@hklaw.com>; paralegal <paralegal@williardlaw.com>; Jana Thompson <Jana@williardlaw.com>

Subject: Return of Templates in the matter of NRT Texas LLC v. Wilbur

[External email]

Nick, as I mentioned to you in my email to you of July 20th and again on July 25th, Taffie did have in her possession a few benign templates and I asked you to let me know how you wanted to proceed but never heard back from you. Not having received any response from you and now your client filed the Complaint, I feel compelled to send you the 3 benign things Taffie had in her possession.

First, attached is the Business Plan that was downloaded onto her personal iPad to facilitate a training program for her CB agents. She told me it was easier to navigate on her iPad using the document from her personal email address.

The next two documents are Commission Calculators (one that was an excel spreadsheet format and the other was just an email that Jennifer sent to Taffie). As you can see, these are merely templates with no “deal” data – anyone with an excel spreadsheet and a little math common sense could easily replicate. Nevertheless, I’ve instructed Taffie to delete these and any copy she may have.

Cathy Johnson has told me she does not have any files from CB whatsoever.

Steve

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From: Sarokhanian, Nicholas A (DAL - X59496) <Nicholas.Sarokhanian@hklaw.com>

Sent: Monday, August 22, 2022 10:12 PM

To: Steve Williard <Steve@williardlaw.com>; paralegal <paralegal@williardlaw.com>; stacy@stacymathews.com

Cc: Kleoppel, Morgan J (DAL - X59445) <Morgan.Kleoppel@hklaw.com>; Tansey, Maddie M (HOU - X45860) <Maddie.Tansey@hklaw.com>

Subject: FW: Activity in Case 4:22-cv-02847 NRT Texas LLC v. Wilbur et al Motion for Temporary Restraining Order

Further to my previous email, please see the attached and the below. As stated previously, NRT Texas LLC will be seeking to have its motion for TRO heard or decided at the court's earliest available opportunity.

Nicholas Sarokhanian | Holland & Knight

Partner

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From: DCECF_LiveDB@txs.uscourts.gov <DCECF_LiveDB@txs.uscourts.gov>

Sent: Monday, August 22, 2022 10:09 PM

To: DC_Notices@txsd.uscourts.gov

Subject: Activity in Case 4:22-cv-02847 NRT Texas LLC v. Wilbur et al Motion for Temporary Restraining Order

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U.S. District Court

SOUTHERN DISTRICT OF TEXAS

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The following transaction was entered by Sarokhanian, Nicholas on 8/22/2022 at 10:08 PM CDT and filed on 8/22/2022

Case Name: NRT Texas LLC v. Wilbur et al

Case Number: [4:22-cv-02847](#)

Filer: NRT Texas LLC

Document Number: [4](#)

Docket Text:

MOTION for Temporary Restraining Order by NRT Texas LLC, filed. Motion Docket Date 9/12/2022. (Attachments: # (1) Affidavit Declaration of Charles El-Moussa (with exhibits), # (2) Exhibit Exs. 2 through 4)(Sarokhanian, Nicholas)

4:22-cv-02847 Notice has been electronically mailed to:

Nicholas Alex Sarokhanian nicholas.sarokhanian@hklaw.com, elanda.spencer@hklaw.com

4:22-cv-02847 Notice has not been electronically mailed to:

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Document description:Affidavit Declaration of Charles El-Moussa (with exhibits)

Original filename:n/a

Electronic document Stamp:

[STAMP dcecfStamp_ID=1045387613 [Date=8/22/2022] [FileNumber=38204275-1] [8bc58f17d088b7e572a7b639c622748b2f2b248052d87220ac48bfa80b622968cec11b1f079b121f9e7b418d3c1c29380247794ab4dc505a41647a610e5eaa2e]]

Document description:Exhibit Exs. 2 through 4

Original filename:n/a

Electronic document Stamp:

[STAMP dcecfStamp_ID=1045387613 [Date=8/22/2022] [FileNumber=38204275-2] [9c42698b35695ec14adb1a2452b710cbade4f3782a5adb4fdaa4fed7005c347ec22c1865fe7b4ed53c88da53b1c7326894ebb6e7a9d47e92a43f94a9325b1e25]]

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EXHIBIT 2

From: [Sarokhanian, Nicholas A \(DAL - X59496\)](#)
To: [Steve Williard; paralegal](#)
Cc: [Kleoppel, Morgan J \(DAL - X59445\)](#); [Tansey, Maddie M \(HOU - X45860\)](#)
Subject: RE: Activity in Case 4:22-cv-02847 NRT Texas LLC v. Wilbur et al Motion for Temporary Restraining Order
Date: Wednesday, August 24, 2022 12:49:35 PM
Attachments: [Doc. 7 - Proposed Order on Motion for TRO.pdf](#)

Steve – thank you for having accepted service on behalf of Premier. Please confirm that you are also representing Ms. Wilbur, Ms. Dolson, and Ms. Johnson, and are accepting service on their behalves.

Also, the proposed TRO is attached. Please let me know whether your clients are agreed to its terms.

Finally, we need you to turn over the USB drive to our forensic consultant at Consilio. Please let me know when you will make it available to Consilio.

Thanks,

Nick

Nicholas Sarokhanian | Holland & Knight

Partner

Holland & Knight LLP

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nicholas.sarokhanian@hklaw.com | www.hklaw.com

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From: Steve Williard <Steve@williardlaw.com>

Sent: Tuesday, August 23, 2022 8:07 PM

To: Sarokhanian, Nicholas A (DAL - X59496) <Nicholas.Sarokhanian@hklaw.com>; paralegal <paralegal@williardlaw.com>

Cc: Kleoppel, Morgan J (DAL - X59445) <Morgan.Kleoppel@hklaw.com>; Tansey, Maddie M (HOU - X45860) <Maddie.Tansey@hklaw.com>

Subject: RE: Activity in Case 4:22-cv-02847 NRT Texas LLC v. Wilbur et al Motion for Temporary Restraining Order

[External email]

Nick, I was able to discuss the Complaint and application for TRO with Premier and I will be representing it and will accept service. I also spoke with Johnson and Dolson both of which I expect will engage the firm tomorrow or the next day to represent them in this lawsuit. I'll keep you posted. I reached out to Wilbur but have not heard from her today – I'll let you know when / if I hear from her.

I looked at your complaint today and I'm just now seeing your motion. As I've stated from the outset and I was assured again today, nothing confidential has been taken by either Johnson or Dolson and

your complaint doesn't really seem to address much in the way of substance. So, if you have a proposed order you'd like to circulate, I'd be more than happy to take a look at it to if we could agree to anything. Your call – let me know. Steve

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From: Sarokhanian, Nicholas A (DAL - X59496) <Nicholas.Sarokhanian@hklaw.com>
Sent: Monday, August 22, 2022 10:12 PM
To: Steve Williard <Steve@williardlaw.com>; paralegal <paralegal@williardlaw.com>; stacy@stacymathews.com
Cc: Kleoppel, Morgan J (DAL - X59445) <Morgan.Kleoppel@hklaw.com>; Tansey, Maddie M (HOU - X45860) <Maddie.Tansey@hklaw.com>
Subject: FW: Activity in Case 4:22-cv-02847 NRT Texas LLC v. Wilbur et al Motion for Temporary Restraining Order

Further to my previous email, please see the attached and the below. As stated previously, NRT Texas LLC will be seeking to have its motion for TRO heard or decided at the court's earliest available opportunity.

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Sent: Monday, August 22, 2022 10:09 PM

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Subject: Activity in Case 4:22-cv-02847 NRT Texas LLC v. Wilbur et al Motion for Temporary Restraining Order

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SOUTHERN DISTRICT OF TEXAS

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Filer: NRT Texas LLC

Document Number: [4](#)

Docket Text:

MOTION for Temporary Restraining Order by NRT Texas LLC, filed. Motion Docket Date 9/12/2022. (Attachments: # (1) Affidavit Declaration of Charles El-Moussa (with exhibits), # (2) Exhibit Exs. 2 through 4)(Sarokhanian, Nicholas)

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Document description:Affidavit Declaration of Charles El-Moussa (with exhibits)

Original filename:n/a

Electronic document Stamp:

[STAMP dcecfStamp_ID=1045387613 [Date=8/22/2022] [FileNumber=38204275-1] [8bc58f17d088b7e572a7b639c622748b2f2b248052d87220ac48bfa80b622968cec11b1f079b121f9e7b418d3c1c29380247794ab4dc505a41647a610e5eaa2e]]

Document description:Exhibit Exs. 2 through 4

Original filename:n/a

Electronic document Stamp:

[STAMP dcecfStamp_ID=1045387613 [Date=8/22/2022] [FileNumber=38204275-2] [9c42698b35695ec14adb1a2452b710cbade4f3782a5adb4fdaa4fed7005c347ec2c1865fe7b4ed53c88da53b1c7326894ebb6e7a9d47e92a43f94a9325b1e25]]

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